

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

TYSONS CORNER

8000 TOWERS CRESCENT DRIVE

SUITE 1200

VIENNA, VIRGINIA 22182

(703) 918-2300

RECEIVED

2005 MAR 10 AM 9:59

TR.A. DOCKET ROOM

FACSIMILE

(703) 918-2450

www.kelleydrye.com

DIRECT LINE (703) 918-2380

EMAIL aedmonds@kelleydrye.com

March 3, 2005

VIA UPS

Ms Sharla Dillon

Docket Manager

Tennessee Regulatory Authority

460 James Robertson Parkway

Nashville, Tennessee 37243-0505

05-00067

**Re: Notice of Election of Interconnection Agreement by  
KMC Data LLC**

Dear Ms. Dillon:

Enclosed for filing with the Tennessee Regulatory Authority ("TRA"), please find an original and three (3) copies of the above-referenced Notice of Election of Interconnection Agreement of KMC Data LLC ("KMC Data"). By this filing, KMC Data notifies the TRA of its adoption of the interconnection agreement between BellSouth Telecommunications, Inc. and Level 3 Communications, L.L.C. pursuant to Section 252(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 252(i), effective as of February 2, 2005.

Also enclosed are a duplicate of this filing and a self-addressed, postage prepaid envelope. Kindly date-stamp the duplicate and return in the envelope provided. If you have any questions concerning this filing, please do not hesitate to contact me at (703) 918-2380.

Respectfully submitted,

*Andrea Pruitt Edmonds*  
Andrea Pruitt Edmonds  
Counsel to KMC Data LLC

Enclosures

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

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(703) 918-2450

www.kelleydrye.com

DIRECT LINE (703) 918-2331

EMAIL ckave@kelleydrye.com

DANNY E. ADAMS

DIRECT LINE (703) 918-2321

E-MAIL dadams@kelleydrye.com

March 9, 2005

VIA UPS

Ms. Sharla Dillon  
Docket Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

Re Notice of Election of Interconnection Agreement by KMC Data LLC

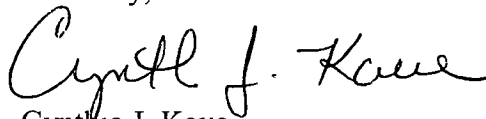
Dear Ms. Dillon:

Pursuant to your conversation with Andrea Edmonds today, enclosed please find ten additional copies of the Notice of Election of Interconnection Agreement. Also please find a check in the amount of \$50.00 for filing fees.

If you have any questions, please feel free to contact me at (703) 918-2331.

Thank you.

Sincerely,



Cynthia J. Kave

Assistant to Andrea P. Edmonds

APE.cjk

PAID T.R.A.

Chk # 1304

Amount 50.00

Rcvd By 2P

Date 3-10-05

**IN THE MATTER OF KMC DATA LLC )  
NOTICE OF ELECTION OF THE )  
INTERCONNECTION AGREEMENT BETWEEN )  
BELLSOUTH TELECOMMUNICATIONS, INC. )  
AND LEVEL 3 COMMUNICATIONS L.L.C. )**

1

appended hereto as **Attachment B**. A copy of the Level 3 Agreement already is on file with the TRA and, therefore, is not attached hereto.

Notwithstanding the adoption of a preexisting agreement, KMC Data reserves the right to amend the Level 3 Agreement to reflect the terms of the Federal Communications Commission's ("FCC") recent decision relating to reciprocal compensation for ISP-Bound traffic. On October 8, 2004, the Federal Communications Commission ("FCC") granted, in part, the *Petition of Core Communications, Inc for Forbearance under 47 U.S.C. 160(c) from Application of the ISP Remand Order in WC Docket No. 03-171*, ("CoreComm Forbearance Decision"). In the CoreComm Forbearance Decision, the FCC granted Core Communication's petition for forbearance from the growth caps and new markets rule established in the FCC's *ISP Remand Order*.<sup>2</sup> The CoreComm Forbearance Decision was made effective as of October 8, 2004 and, consequently, the growth caps and new market rules are no longer effective. Because the Level 3 Agreement does not reflect the CoreComm Forbearance Decision, KMC Data reserves the right to amend Level 3 Agreement to reflect the CoreComm Forbearance Decision once this adoption becomes effective.

In processing this adoption, please include the following contact information for the Notice sections of the KMC Data/BellSouth interconnection agreement:

Marva Brown Johnson  
KMC Telecom  
1755 North Brown Road  
Lawrenceville, GA 30043  
(678) 985-6220 (telephone)  
(678) 985-6213 (facsimile)

---

Commission treat this filing as an application for adoption of the Level 3 Agreement, effective as of February 2, 2005.

<sup>2</sup> *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151 (2001) ("ISP Remand Order"), remanded, *WorldCom v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), cert denied, 538 U.S. 1 (2003).

and copies to:


Raymond Pifer  
KMC Telecom  
1755 North Brown Road  
Lawrenceville, GA 30043  
(678) 985-6441 (telephone)  
(678) 985-6213 (facsimile)

In addition, the following contact information should be used solely for the purpose of completing the adoption process:

Brad E. Mutschelknaus  
Andrea Pruitt Edmonds  
Denise N. Smith  
KELLEY DRYE & WARREN LLP  
1200 Nineteenth Street, N.W.  
Suite 500  
Washington, DC 20036

WHEREFORE, KMC Data prays the TRA enter an order acknowledging KMC Data's adoption of the Level 3 Agreement.

Respectfully submitted,

By 

Brad E Mutschelknaus  
Andrea P. Edmonds  
Denise N. Smith  
KELLEY DRYE AND WARREN LLP  
1200 19<sup>th</sup> Street, N.W., Suite 500  
Washington, DC 20036  
Telephone: (202) 955-9600  
Facsimile: (202) 955-9792

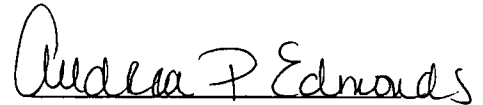
*Attorneys for KMC Data LLC*

Dated: March 3, 2005

### **CERTIFICATE OF SERVICE**

I, Andrea Pruitt Edmonds, Attorney for KMC Data LLC, do hereby certify that on this 3<sup>rd</sup> day of March 2005 a true and correct copy of the above Notice of Election was sent via first class U.S. mail to:

James Tamplin  
BellSouth Interconnection Services  
675 West Peachtree Street, NE  
Room 34S91  
Atlanta, Georgia 30375

A handwritten signature in cursive script that reads "Andrea P. Edmonds". The signature is written in dark ink and is positioned to the right of the recipient's address.

# **ATTACHMENT A**

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**TYSONS CORNER**

**8000 TOWERS CRESCENT DRIVE**

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NEW YORK, NY  
WASHINGTON, DC  
LOS ANGELES, CA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

HONG KONG

AFFILIATE OFFICES

BANGKOK, THAILAND  
JAKARTA, INDONESIA  
MANILA, THE PHILIPPINES  
MUMBAI, INDIA  
TOKYO, JAPAN

February 2, 2005

**VIA FACSIMILE AND OVERNIGHT DELIVERY**

Mr. James Tamplin  
BellSouth Interconnection Services  
675 West Peachtree Street, NE  
Room 34S91  
Atlanta, GA 30375  
James.Tamplin@BellSouth.com  
FAX: 404-529-7839

Re: Notification of KMC Data LLC, Pursuant to Section 252(i) of the Communications Act of 1934, as amended, to Adopt the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Level 3 Communications, LLC for the State of Tennessee

Dear Mr. Tamplin:

KMC Data LLC ("KMC Data"), by its attorneys, hereby notifies BellSouth Telecommunications, Inc. ("BellSouth") of its adoption, pursuant to section 252(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 252(i) (the "Act"), of the interconnection agreement between BellSouth and Level 3 Communications, LLC ("Level 3"), dated May 24, 2004, for the State of Tennessee (the "Level 3 Agreement"). KMC Data hereby adopts the terms and conditions of the Level 3 Agreement as the terms and conditions that will govern the relationship between BellSouth Telecommunications, Inc. and KMC Data in the State of Tennessee.

By execution of this adoption letter and any related correspondence or documentation, neither KMC Data nor BellSouth waives any of its rights or remedies under the Act; the rules, decisions or administrative processes of the Federal Communications Commission or the regulatory utility commissions, agencies, boards or departments in Tennessee; or under any other applicable law or regulation. KMC Data's adoption of the Level 3 Agreement does not affect any rights KMC Data has to adopt or negotiate/arbitrate amendments or successor



Mr. James Tamplin  
BellSouth Interconnection Services  
February 2, 2005  
Page Two

agreements to the agreement formed through this adoption. In addition, this adoption request in no way impairs or affects the status of KMC Telecom III LLC and KMC Telecom V, Inc., which are parties to an ongoing arbitration proceeding with BellSouth.

KMC Data reserves the right to amend the Level 3 Agreement to reflect the terms of the Federal Communications Commission's ("FCC") recent decision relating to reciprocal compensation for ISP-Bound traffic. On October 8, 2004, the Federal Communications Commission ("FCC") granted, in part, the *Petition of Core Communications, Inc for Forbearance under 47 U.S.C. 160(c) from Application of the ISP Remand Order in WC Docket No. 03-171*, ("*CoreComm Forbearance Decision*") In the CoreComm Forbearance Decision, the FCC granted Core Communications's petition for forbearance from the growth caps and new markets rule established in the FCC's *ISP Remand Order*.<sup>1</sup> The CoreComm Forbearance Decision was made effective as of October 8, 2004, and consequently, the growth caps and new market rules are no longer effective. To the extent the Level 3 Agreement does not reflect the CoreComm Forbearance Decision, KMC Data reserves the right to amend the Level 3 agreement to reflect the CoreComm Forbearance Decision once this adoption becomes effective.

In processing this adoption, please include the following contact information for the Notice sections of the KMC Data/BellSouth interconnection agreement:

Marva Brown Johnson  
KMC TELECOM  
1755 North Brown Road  
Lawrenceville, GA 30043  
(678) 985-6220 (telephone)  
(678) 985-6213 (facsimile)

and copies to:

Raymond Pifer  
KMC TELECOM  
1755 North Brown Road  
Lawrenceville, GA 30043  
(678) 985-6441 (telephone)  
(678) 985-6213 (facsimile)

In addition, the following contact information should be used solely for the purpose of completing the adoption process:

---

<sup>1</sup> *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151 (2001) ("*ISP Remand Order*"), remanded, *WorldCom v FCC*, 288 F 3d 429 (D C Cir 2002), cert denied, 538 U S 1 (2003)

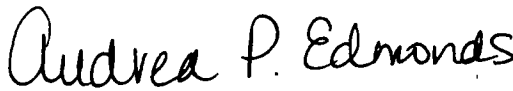
Mr. James Tamplin  
BellSouth Interconnection Services  
February 2, 2005  
Page Three

Brad E. Mutschelknaus  
Andrea P. Edmonds  
Denise N. Smith  
KELLEY DRYE & WARREN LLP  
1200 Nineteenth Street, N.W.  
Suite 500  
Washington, DC 20036  
(202) 955-9600 (telephone)  
(202) 955-9792 (facsimile)

By sending this letter, KMC Data has fully exercised its rights, under section 252(i) of the Act, to adopt the Level 3 Agreement. Accordingly, the effective date for the interconnection agreement formed through this adoption is the date of this notice, February 2, 2005. Kindly acknowledge BellSouth's receipt of this notification and agreement to the effective date by executing a copy of this letter in the space provided and returning it to the undersigned counsel. Please contact us at your earliest convenience in order to agree upon a process for the preparation and filing of the interconnection agreement formed through this adoption. Please be advised, however, that KMC Data reserves the right to proceed to file this adoption directly with the Tennessee Regulatory Authority should the undersigned counsel not receive a signed acknowledgement from BellSouth within five (5) business days from the date of this letter.

Thank you for your anticipated cooperation in this matter.

Respectfully submitted,



Brad Mutschelknaus  
Andrea P. Edmonds  
Denise N. Smith

*Counsel to KMC Data LLC*

**ACKNOWLEDGED AND AGREED TO:**

**BellSouth Telecommunications, Inc.**

**BY:** \_\_\_\_\_ (signature)

\_\_\_\_\_ (name)

**DATED:** \_\_\_\_\_

# **ATTACHMENT B**

675 West Peachtree Street, NE  
Room 34S91  
Atlanta, Georgia 30375

Jim Tamplin  
(404)-927-8997  
Fax: (404) 529-7839

**Sent Via E-mail and Certified Mail**

February 11, 2005

Mr. Brad Mutschelknaus  
Ms. Denise N. Smith  
Ms. Karly E. Baraga  
Kelley Drye & Warren LLP  
1200 Nineteenth Street, N.W.  
Suite 500  
Washington, DC 20036

Dear Mr. Mutschelknaus:

This is in response to your four letters dated February 2, 2005, regarding a request of KMC Data LLC ("KMC Data") to adopt the Interconnection Agreement between BellSouth and Level 3 Communications, L.L.C. ("Level 3") for the states of Kentucky, North Carolina, South Carolina and Tennessee.

BellSouth acknowledges receipt of KMC Data's request for adoption but disagrees with the assumptions upon which KMC Data bases its request and the manner in which the request is made. Due to the Federal Communications Commission's (FCC) Interim Rules Order as well as the requirements set forth in 47.C.F.R. § 51.809, BellSouth respectfully declines to execute KMC Data's adoption request at this time, but can provide alternatives that should meet KMC Data's needs for the states of Kentucky, North Carolina, South Carolina and Tennessee.

The Interim Rules Order provided that an adoption of another party's interconnection agreement that contains rates, terms and conditions for mass market switching, enterprise market loops and high-capacity dedicated transport, that comprise the frozen elements addressed in the Interim Rules Order, is not permitted at this time. Specifically, paragraph 22 of the Interim Rules Order states:

We also hold that competitive LECs may not opt into the contract provisions 'frozen' in place by this interim approach. The fundamental thrust of the interim relief provided here is to maintain the *status quo* in certain respects without expanding unbundling beyond that which was in place on June 15, 2004. This aim would not be served by a requirement permitting new carriers to enter during the interim period.

In addition, paragraph 23 of the Interim Rules Order states:

[I]f the vacated rules were still in place, competing carriers could expand their contractual rights by seeking arbitration of new contracts, or by opting into other carriers' new contracts. The interim approach adopted here, in contrast, does not enable competing carriers to do either.

The intent of the Interim Rules Order was to freeze in place the carriers' provisions as of June 15, 2004, and not to permit a new carrier to obtain vacated elements to which they were not entitled as of June 15, 2004.

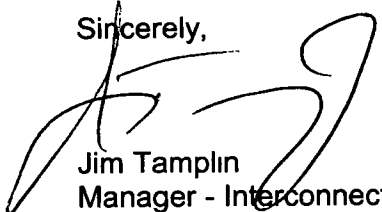
Further, 47 C.F.R. § 51.809(c) states that interconnection agreements are to be made available to requesting carriers for adoption only for a reasonable period of time after such agreements are approved by the applicable state commission. Since the execution of the Level 3 agreement, there have been substantial changes in law, including but not limited to the D.C. Circuit Court of Appeals vacatur of certain portions of the FCC's Triennial Review Order, and the FCC's Interim Rules Order regarding interim unbundling rules, as referenced and discussed above. In addition, the FCC's Triennial Review Remand Order will become effective on March 11, 2005, further changing the terms upon which requesting carriers may order unbundled network elements. Given the significant changes that have occurred rendering the Level 3 Interconnection Agreement noncompliant with existing law, KMC Data's request to adopt this agreement has not been made within a reasonable period of time as required by the FCC's rules and is not adoptable in accordance with the FCC's rules and orders.

Although an adoption of the Level 3 Interconnection Agreement is not an option at this time, BellSouth can provide KMC Data with BellSouth's proposed Interconnection Agreement for new CLECs for the states of Kentucky North Carolina, South Carolina and Tennessee.

Please advise BellSouth as to how KMC Data would like to proceed and BellSouth can make available the appropriate agreement to be executed by the Parties. BellSouth will fully cooperate with KMC Data to complete these agreements and establish the necessary billing accounts once KMC Data and BellSouth have executed an agreement. The executed agreements will be effective on the date agreed upon by the Parties in the Interconnection Agreement.

Please contact me at your earliest convenience. BellSouth looks forward to working with KMC Data in reaching a mutually agreeable Interconnection Agreement.

Sincerely,



Jim Tamplin  
Manager - Interconnection Services

cc. Rhona Reynolds, Esq.  
Andrew Shore, Esq.  
Marva Brown Johnson, KMC Data LLC  
Raymond Pifer, KMC Data LLC

04-00381



1230 Peachtree Street, NE, 19th Floor, Atlanta, GA 30309  
W > <http://www.covad.com>

F > 404 942 3495

Colette Davis  
Vice President, External Affairs

**RECEIVED**

(404) 942-3493 (direct)  
codavis@covad.com

**MAR - 9 2005**

March 4, 2005

**TN REGULATORY AUTHORITY  
DEBI TATE**

**VIA EMAIL AND OVERNIGHT MAIL**

David Jones, Account Manager  
Sharyn Gaston, Contract Manager  
BellSouth Telecommunications, Inc.  
600 North 19<sup>th</sup> Street, 8<sup>th</sup> Floor  
Birmingham, AL 35203

Marc Gary, General Counsel  
BellSouth Telecommunications, Inc.  
675 W. Peachtree Street, NE  
Suite 4300  
Atlanta, GA 30375

**Re: Triennial Review Remand Order Change-of-Law Negotiations**

Dear David, Sharyn and Marc:

As you know, the Federal Communication Commission's (FCC) Triennial Review Remand Order (TRRO) becomes effective on March 11, 2005. Unfortunately, BellSouth's various communications concerning the significance of this date to Covad's right to place orders in certain Central Offices (COs) for DS-1 loops and dedicated transport have not been entirely clear.<sup>1</sup> We want to take this opportunity to clarify Covad's contractual rights and to begin the negotiation process necessary to implement appropriate changes to the BellSouth-Covad Interconnection Agreement (IA) arising from the TRRO. As the TRRO contemplates, Covad is committed to moving this process forward expeditiously.

The BellSouth-Covad IA contains a change-of-law clause, paragraph 16.3 of General Terms and Conditions, specifically designed to create an orderly process for the negotiation of modifications to the IA made necessary when the laws and regulations governing our relationship have changed. The TRRO rule changes affecting the availability of high cap loops and interoffice transport take effect on March 11, thus triggering the procedures provided for in the change-of-law clause as of that date.

---

<sup>1</sup> For instance, on May 28, 2004, BellSouth sent a letter to the Florida Public Service Commission promising that "BellSouth will not 'unilaterally disconnect services being provided to any CLEC under the CLEC's Interconnection Agreement.'" BellSouth further promised.

With respect to new or future orders, 'BellSouth will not unilaterally breach its interconnection agreements.' If the D.C. Circuit issues its mandate on June 15, 2004, BellSouth will continue to accept and process new orders for services (including switching, high capacity transport, and high capacity loops) and will bill for those services in accordance with the terms of existing interconnection agreements, until such time as those agreements have been amended, reformed, or modified consistent with the D.C. Circuit's decision pursuant to established legal processes.

Despite clear contractual change-of-law provisions, and the equally clear language in Paragraph 233 of the TRRO—Carrier Notification SN91085099 posted February 11, 2005 and revised by Carrier Notification SN91085051 posted February 25, 2005, suggests that BellSouth intends to unilaterally implement changes in ordering processes and/or changes in the availability of UNEs as of the March 11 date. Any such unilateral implementation of changes in ordering processes and/or the availability of UNEs would constitute a clear breach of our IA. While we hope that BellSouth intends to honor its contractual obligations, Covad will take all actions necessary to enforce its contractual rights in the event of such a unilateral action.

Given the extremely short time period prior to March 11, we ask that BellSouth confirm in writing by March 8, 2005 that:

- 1) No changes in ordering processes will be implemented on March 11, 2005, including without limitation, any requirement of a self-certification as described in Paragraph 234 of the TRRO, and that all such changes in ordering processes shall be implemented only at such time as the change-of-law process described in the BellSouth-Covad IA has resulted in appropriate amendments to the IA; and
- 2) No changes in the availability of UNEs affected by the TRRO will be implemented on March 11, 2005, and that all such changes in availability of UNEs affected by the TRRO ordering processes shall be implemented only at such time the change-of-law process described in the BellSouth-Covad IA has resulted in appropriate amendments to the IA.

This letter shall also constitute written notice that Covad is not required to provide any self-certification contemplated by Paragraph 234 of the TRRO commencing March 11, 2005, and shall only be required to provide such a self-certification following amendment of the IA. In the event that BellSouth unilaterally requires any form of self-certification as of March 11, 2005, Covad shall supply such self-certification based on its continued entitlement to access to UNEs under its IA pending completion of change-of-law amendments, irrespective of the form of self-certification unilaterally specified by BellSouth. Such self-certification shall be without prejudice to any of Covad's contractual rights. Covad will consider any rejection of orders based upon unilateral self-certification or other order processing requirements to be clear and willful breaches of the IA, and shall seek damages for any lost orders, harm to customer relationships or other adverse consequences.

In the event that BellSouth intends to require any form of self-certification or other changes in ordering processes, notwithstanding Covad's contractual right to a continuation of existing ordering processes pursuant to the IA, we request that BellSouth specify any such changes in writing by March 8, 2005.

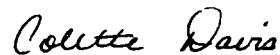
With respect to any self-certification requirements that may be the subject of change-of-law negotiations, we note that on February 18, 2005, BellSouth published a list of COs where it believes certain network elements have been "delisted" as UNEs under §§251 and 252 of the Telecommunications Act of 1996. In order to conduct a reasonably diligent inquiry into the appropriateness of this list in light of the guidelines and definitions set out in the TRRO, we have asked our account team

Letter re Triennial Review Remand Order Change of Law Negotiations  
March 4, 2005  
Page 3 of 3

at BellSouth to provide us with the information described in the enclosure attached hereto. This information is solely in the possession of BellSouth. To date we have not received the information, but we are hopeful that you will provide it to us expeditiously so that we can consider this information in our change-of-law negotiations. With regard to these negotiations, we are preparing a template containing the language necessary to implement the TRRO. We will forward this to you next week.

Thank you for your prompt attention to these important matters. Please do not hesitate to contact me with any questions that you might have.

Sincerely,

A handwritten signature in cursive script that reads "Colette Davis".

Colette Davis

cc: State Commissions

Encl.



**ATTACHMENT TO THE MARCH 4, 2005  
TRRO LETTER RE CHANGE-OF-LAW NEGOTIATIONS**

Questions to BellSouth re BellSouth's TRRO CLLI List

On February 18, 2005, your company submitted a CLLI code list to the Federal Communications Commission (FCC) identifying Central Offices (COs) that you assert meet certain criteria set out in the Triennial Review Remand Order (TRRO). In order to assist Covad in conducting a reasonably diligent inquiry into these COs as described in Paragraph 234 of the TRRO, please provide Covad with the following information regarding the methodologies used to create the list. All of the information requested below is solely in the control of your company and cannot be obtained by Covad without your assistance.

**I. Business Lines**

1. Please provide a breakdown of the total number of business access lines you reported for each wire center, by wire center CLLI code, according to the following categories: business analog switched access lines counted under ARMIS 43-08, business digital switched access line equivalents counted under ARMIS 43-08, business Centrex extensions counted under ARMIS 43-08, Centrex trunks counted under ARMIS 43-08, PBX trunks counted under ARMIS 43-08, business UNE DS0, DS1 and DS3 loops not in combination with other network elements, and business UNE DS0, DS1 and DS3 loops provided in combination with other network elements.
2. Please describe in reasonable detail the criteria applied to determine which lines were appropriate to include as business lines on the list provided to the FCC on February 18, 2005. Additionally, please supply the following information with respect to the criteria you identify:
  - A. The source of the data or information used to determine whether a particular business line fulfilled the applicable criteria.
  - B. When the data or information used to determine whether a particular business line fulfilled the applicable criteria was gathered.
3. Please identify any criteria applied to determine which lines were appropriate to include as business lines on the CLLI list provided to the FCC on February 18, 2005 that were different from the criteria used to create the list your company provided to the FCC on December 7, 2004.
4. If applicable given the information requested above, what steps did you take to confirm that high-capacity facilities (or some portion of high-capacity facilities)

included in the business access line counts were used to provide switched-access services?

5. Were any dedicated or shared transport facilities counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which dedicated or shared transport facilities were counted as business lines and the number of business lines counted as a result.
6. Were any lines connecting BellSouth facilities to Internet Service Providers counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which lines connecting BellSouth facilities to Internet Service Providers were counted as business lines and the number of business lines counted as a result.
7. Were any UNE loops ordered by Covad counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which UNE loops ordered by Covad were counted as business lines and the number of business lines counted as a result.
8. Were any lines serving your subsidiaries or affiliates counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which lines serving your subsidiaries or affiliates counted as business lines and the number of business lines counted as a result.
9. Were any data loops (e.g. xDSL-capable loops, T-1 loops, etc.) or portions of data loops not providing switched services counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which data loops or portions of data loops not providing switched services were counted as business lines and the number of business lines counted as a result.

10. If not covered by the information you provided in response to Question 8, was bandwidth on channelized high capacity loops that was not being used for voice service counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which bandwidth on channelized high capacity loops that was not being used for voice services was counted as business lines and the number of business lines counted as a result.
11. In situations where you counted high capacity loops as business lines, did you “round up” or down when calculating 64 Kbps equivalents for high capacity loops where the loop speed was not divisible by 64 (i.e. is a 144 Kbps line providing switched access services counted as two business lines or three)?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which “rounded-up” lines were counted as business lines and the number of business lines counted as a result.
12. To the extent that it is possible for you to identify this information, were any lines used to provide voice services using Voice-over-Internet-Protocol (VoIP) services counted as business lines?
  - A. If so, why?
  - B. If so, please identify each wire center, by CLLI code, for which lines used to provide voice services using VoIP were counted as business lines and the number of business lines counted as a result.
13. When calculating data speeds for purposes of determining 64 Kbps equivalents, what speed did you use for this calculation on lines with asymmetrical upstream and downstream speeds; the slower speed, the higher speed, the upstream speed, or the downstream speed? If your answer depends on the type of line, please explain what speed was used for each type of line and why.
14. When calculating the total number of business access lines, how did you differentiate a residential line from a business line?
15. When calculating the total number of business access lines, did you count each Centrex extension as a full business line?
  - A. If so, why?

- B. If so, please identify each wire center, by CLLI code, for which Centrex extensions were counted as full business lines and the number of business lines counted as a result.

## II. Fiber Collocators

1. Please list, by CLLI code, how many fiber collocators you identified in each wire center listed on your submission to the FCC on February 18, 2005.
2. Please indicate what steps you took to confirm that fiber collocators you counted were actively operating facilities in a particular CO.
3. If applicable, please identify how many of these fiber collocators were added in each wire center since your December 7, 2004 *ex parte* filing at the FCC. Please organize your answer by CLLI code and explain the basis for adding each such new fiber collocator.
4. If applicable, please identify how many fiber collocators were removed from the list in each wire center since your December 7, 2004 *ex parte* filing at the FCC. Please organize your answer by CLLI code and identify your basis for removing each fiber collocator that is no longer being counted.
5. Please describe in reasonable detail the criteria you used to determine which fiber collocators were appropriate to include in the count that you used to compile the CLLI code list you submitted to the FCC on February 18, 2005. Additionally, please supply the following information with respect to the criteria you identify
  - A. The source of the data or information used to determine whether a particular collocator fulfilled the applicable criteria.
  - B. When the data or information used to determine whether a particular collocator fulfilled the applicable criteria was gathered.
6. In the event that a single fiber collocator leases its fiber facilities to one or more other collocators in the same wire center, did you identify one fiber collocator or multiple fiber collocators in that wire center?
  - A. If you identified multiple fiber collocators where one fiber collocator leases fiber facilities to one or more other collocators in the same wire center, please identify for each wire center, by CLLI code, the number of fiber collocators leasing fiber from another carrier that you counted as a separate fiber collocator.
  - B. If you identified multiple fiber collocators where one fiber collocator leases fiber facilities to one or more other collocators in the same wire

center, please identify for each wire center what steps, if any, you took to verify that the lessor(s) obtained leased fiber on an indefeasible right of use basis?

7. Did you include fiber-based collocators using “comparable transmission facilities” (non-fiber-based collocator)?
  - A. If so, please describe in reasonable detail the criteria you used to determine if a collocator was using “comparable transmission facilities” and the kinds of facilities you determined to be “comparable transmission facilities.”
  - B. If so, please list, by CLLI code, the number of non-fiber-based collocators you included in the list you submitted to the FCC on February 18, 2005, the type of transmission medium used by each non-fiber-based collocator identified.

### **III. Tier 1 Tandem Offices**

1. Identify by CLLI code any wire centers counted as Tier 1 wire centers that are tandem switching locations without line-side switching capability that serve as a point of traffic aggregation accessible by competitive LECs.